(3)

463/06
P.F. No.
Presented by Shri S.R.J. Jaiswal
dated 23/1/06

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

Division Bench

WRIT PETITION NO. 536 OF 2006

PETITIONER :

Harish Kumar Agrawal, S/o Shri Satyanarayan Agrawal, Aged about 41 years, R/o Akaltara, Distt Janjgir-Champa (CG)

Versus

RESPONDENTS :

1. State of Chhattisgarh Through the Secretary, Department of Industry, D.K.S. Building, Mantralaya, Raipur, Chhattisgarh.
2. The Collector, Distt Janjgir-Champa (CG)
3. The President, Chhattisgarh Pollution Conservation Board, Raipur (CG)
4. The S.D.O. Revenue, Janjgir, Distt Janjgir-Champa (CG)
5. M/s K.V.K. Bio Energy Private Ltd. AT. VILLAGE - AMARTAL DIST. JANJGIR CHAMPA

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

1. PARTICULARS OF THE PETITIONER.

(24)

A.F.R.

Due

07-02-2006

HIGH COURT OF JUDICATURE CHHATTISGARH :BILASPUR

CORAM : **HON'BLE SHRI S.R. NAYAK, CJ.**
& HON'BLE SHRI D.R. DESHMUKH, J.

WRIT PETITION NO. 536 OF 2006

PETITIONER Harish Kumar Agrawal, S/o Shri Satyanarayan Agrawal, Aged about 41 years, R/o Akaltara, Distt. Janjgir-Champa (C.G)

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4. The S.D.O. Revenue, Janjgir, Distt Janjgir-Champa (C.G.)
5. M/s. K.V.K. Bio Energy Private Ltd. At village – Amartal Dist. Janjgir Champa.

Present : Shri B.D. Guru, learned counsel for the petitioner.
Shri Vinay Harit, learned Govt. Advocate for the State/ respondents 1,2 and 4.
Shri V.V.S. Murthy, learned Sr. Advocate with Shri Hemant Solapurkar, learned counsel for respondent No.3.

Oral Order
(7th February, 2006)

The following order of the Court was passed by

S. R. Nayak, CJ.

Should we say that this writ petition filed as Public Interest Litigation is totally irresponsible as well as unjustified. It is stated that a Biotechnical Power Plant at Amartal, District Janjgir-Champa is established recently. This writ petition is filed apprehending that when the Biotechnical Power Plant starts functioning, it would emit ashes and Bio-gases including

hazardous gases and other kind of waste from the plant causing heavy pollution in the area. When that is the allegation as could be seen from paragraph 5.2, the only other paragraph wherein source of that information is disclosed is paragraph 5.3. In paragraph 5.3, it is stated that the people of the area came to know from sources that respondent No.5 has not adhered to the norms and procedure prescribed under the Water and Air Pollution Control Act, 1981 (for short "the Act') and has not installed any pollution control appliances to protect the pollution in the area. If we may say so, the petitioner is not justified in not disclosing even the source of information to the Court. Secondly, the allegation that the 5th respondent has not adhered to the norms and procedure prescribed under the Act, if we may say so, is as vague as it could be and the veracity of this allegation cannot be verified or tested. Even in the course of argument, learned counsel for the petitioner, despite our asking, did not disclose the source of the information of the petitioner and he would only say that the people of the area apprehend aforementioned danger. It is quite often held and reiterated by the Courts that a *pro bono* public character before filing the public interest litigation under Article 226 of the Constitution is duty-bound to take pains to ascertain necessary facts and details and he should bring it to the notice of the concerned department or higher-ups in the concerned department or authority and only in the event of such higher authorities of the administration refusing to take appropriate action, he can approach the Constitutional Courts under Article 226 of the Constitution. The whole writ petition is based on hearsay and imagination of the petitioner and no required factual matrix is laid on the basis of which we could possibly treat this writ petition as public interest litigation and

take further steps to sub-serve the public interest. The writ petition is, therefore, dismissed. No costs.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Sd/-
Chief Justice